AUG 4 1982
1008-L
ORIGINAL

Calendar No. 727

97TH CONGRESS, 2d Session } SENATE { REPORT No. 97-509

Y1.1/5:97-509
COMPLETED

UNITED STATES HOLDS CERTAIN LANDS IN TRUST FOR THE WASHOE TRIBE

JULY 28 (legislative day, JULY 12), 1982.—Ordered to be printed

---

Mr. COHEN, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 1858]

The Select Committee on Indian Affairs to which was referred the bill (S. 1858) to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the United States Forest Service having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment in the nature of a substitute is as follows:

Strike out all after the enacting clause and insert the following:

That (a) subject to the provisions of subsection (b), all right, title, and interest of the United States in the following lands (including all improvements thereon and appurtenances thereto, particularly all water rights appurtenant thereto which are presently administered by the Bureau of Indian Affairs of the Department of the Interior are hereby declared to be held by the United States in trust for the benefit and use of the Washoe Tribe of Nevada and California and are hereby declared to be part of the Washoe Indian Reservation:

TOWNSHIP 14 NORTH, RANGE 19 EAST, MOUNT DIABLO MERIDIAN, NEVADA

Section 1: Lot 2 northeast quarter, lot 3; 84.90 acres.

Section 3: West half lot 1 west half lot 2, northeast quarter, east half lot 1, east half lot 2, northwest quarter; 157.14 acres.

Section 14: East half southwest quarter, southwest quarter northeast quarter, southeast quarter northwest quarter excluding any portion lying west of Jack's Valley Road as it presently exists; 160.00 acres.

Section 22: South half north half; 160.00 acres.

Section 23: South half, south half northwest quarter, northeast quarter northwest quarter; 440.00 acres.

Section 24: South half south half; 160.00 acres.

Section 25: North half, southeast quarter, northeast quarter southwest quarter; 520.00 acres.

89-010 O

Section 36: West half, north half northeast quarter, southwest quarter northeast quarter, south half southeast quarter, northwest quarter southeast quarter; 560.00 acres.

Total acreage: 2,242.04 acres more or less.

TOWNSHIP 14 NORTH, RANGE 20 EAST, MOUNT DIABLO MERIDIAN, NEVADA

Section 5: The north half of the northeast quarter lying west of the V and T right-of-way and south of Clear Creek; and the east half of lot 2 in the northwest quarter. Total acreage: 108.01 acres more or less.

Section 6: Lots 1 and 2; 144.13 acres.

Section 18: West half northeast quarter, southeast quarter northeast quarter, northwest quarter southeast quarter; 160.00 acres more or less.

Section 19: South half lot 2 northwest quarter, lot 2 southwest quarter; 98.36 acres more or less.

TOWNSHIP 15 NORTH, RANGE 20 EAST, MOUNT DIABLO MERIDIAN, NEVADA

Section 32: The east half of the southeast quarter and the southwest quarter of the southeast quarter; and two parcels of land lying within the northwest quarter of the southeast quarter of section 32 in township 15 north of range 20 east of the Mount Diablo Meridian in Ormsby County, Nevada. Parcel numbered 1 is south of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, the corner being also the southwest corner of the missionary lot, said point of beginning and further described as being north 52 degrees 43 minutes west, a distance of 2,198.00 feet from the southeast corner of section 32:

thence north 89 degrees 50 minutes west, a distance of 900.00 feet to the southwest corner of the parcel, said corner being also the southwest corner of the above described subdivision;

thence north 0 degrees 04 seconds east, a distance of 1,102.00 feet to a point at the northwest corner of the parcel and the southerly side of the highway 100-foot right-of-way line;

thence south 51 degrees 32 minutes east, along the southerly side of the highway right-of-way line a distance of 1,600.28 to a point at the intersection of the highway right-of-way line and the northerly property line of the missionary lot;

thence north 55 degrees 24 minutes west along the northerly property line of said lot a distance of 430.00 feet to a point;

thence south 0 degrees 04 minutes west, along the west boundary of said lot a distance of 354.40 feet to the point of beginning; said parcel numbered 1 containing 15.51 acres more or less.

Parcel numbered 2 is north of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, said corner being on the northerly side of the highway 100-foot right-of-way line and the east side of the above described subdivision, said point of beginning being further described as bearing north 41 degrees 18 minutes west, a distance of 2,010 feet from the southeast corner of section 32:

thence north 51 degrees 32 minutes west, along the northerly side of the highway right-of-way line a distance of 1,690.00 feet to a point;

thence north 0 degrees 04 minutes east, a distance of 35.80 feet to the northwest corner of the parcel, said corner being also the northwest corner of the above described subdivision;

thence south 89 degrees 50 minutes east, along the subdivision line a distance of 1,239.50 feet to the northeast corner of the parcel and the west right-of-way line of the Virginia and Truckee Railroad;

thence south 0 degrees 04 minutes west, along the railroad right-of-way line a distance of 44.50 feet to a point;

thence from a tangent whose bearing is the last described course curving to the left with a radius of 1,196.28 feet through an angle of 21 degrees 15 minutes 40 seconds a distance of 443.90 feet to a point on the railroad right-of-way line and the east side of the subdivision;

thence south 0 degrees 04 minutes west, along the east side of the subdivision a distance of 655.70 feet to the point of beginning.

And the south half of the southwest quarter excepting the following parcels:

(1) land lying west of the V and T Railroad right-of-way contained in the southeast quarter southeast quarter; and

(2) southwest quarter southeast quarter.

Total acreage 165.54 acres more or less.

(b) Nothing in this section shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right (including any water right with respect to the Carson River as decreed by order of the United States District Court of the State of Nevada on October 28, 1980, in the matter of the determination of the relative rights in and to the waters of the Carson River and its tributaries in Douglas County, Nevada), or other legal right or legal interest which such person or entity may have in land described in subsection (a).

(c) The lands which are declared to be held in trust and part of the Washoe Indian Reservation under subsection (a) shall be used primarily for agricultural purposes.

(d) Section 164 of the Act of July 13, 1955 (69 Stat. 322, 42 U.S.C. 7474), as amended, shall be applied without regard to the provisions of this section.

SEC. 2. On or before the expiration of one hundred and eighty days from the date of enactment of this Act the Bureau of Indian Affairs shall transfer to the Forest Service, United States Department of Agriculture, the following lands which shall become national forest system lands subject to all laws, rules, and regulations applicable to the national forest system:

TOWNSHIP 14 NORTH, RANGE 19 EAST, MOUNT DIABLO, MERIDIAN, NEVADA

Section 21: Southeast quarter northeast quarter; 40 acres.
Section 28: Northeast quarter northeast quarter; 40 acres.
Total acreage: 80.00 acres more or less.

PURPOSE

The purpose of S. 1858 is to transfer 2,890 acres of land, now part of the defunct Stewart Indian School in Nevada, to the Washoe Tribe of Nevada and California. The bill would also transfer about 80 acres of land now administered by the Bureau of Indian Affairs to the National Forest Service.

BACKGROUND AND NEED

The Washoe Tribe of Nevada and California has about 1,500 members of which about 500 now live in four communities; three in Nevada and one in California. At present, the holdings of the Washoe Tribe are not large and the 2,890 acres of land which are to be taken into trust for the tribe under S. 1858 would more than double its holdings.

The Stewart Indian School was acquired by the United States in 1939 and 1940 and had been used as an agricultural school for Indian students. In 1980, the Bureau of Indian Affairs closed the school. After the school was closed, the protection and maintenance of the grounds and buildings was left to the staff of the Western Nevada Agency of the BIA. The staff and the budget of this agency proved insufficient to discharge these duties and, consequently, the BIA entered into a one-year revocable permit with the Washoe Tribe. Under the permit, the Tribe provided the necessary maintenance and protection of the property and, in return, was able to improve its agriculture and ranching operations.

The acquisition of the land for the Washoe Tribe is intended to enable it to pursue its goal of greater economic self-sufficiency. The land to be acquired under this Act will be integrated into the management of the 795 acres of land that has been held in trust for the Tribe since 1917. The purpose of the bill is in accord with the general Federal policy of self determination for Indian tribes.

LEGISLATIVE HISTORY

The Washoe Tribe Land Transfer bill, S. 1858, was introduced by Senator Howard Cannon of Nevada on November 17, 1981. Senator Paul Laxalt of Nevada joined as an original co-sponsor. A hearing was held on March 8, 1982.

Companion legislation, H.R. 5081, was introduced in the House of Representatives by Congressman Jim Santini of Nevada on November 20, 1981. The bill was favorably reported out of the House Interior and Insular Affairs Committee on April 21, 1982.

COMMITTEE RECOMMENDATION

The Select Committee on Indian Affairs, by a poll of its Members on May 13, 1982, unanimously recommends that the Senate pass S. 1858, as amended.

COMMITTEE AMENDMENTS

The Select Committee on Indian Affairs adopted an amendment in the nature of a substitute in order to make all technical, correcting and clarifying changes.

COST AND BUDGETARY CONSIDERATION

The Cost estimate for S. 1858, as amended, as provided by the Congressional Budget Office, is outlined below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 20, 1982.

Hon. WILLIAM S. COHEN,
Chairman, Select Committee on Indian Affairs,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 1858, a bill to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the United States Forest Service, as amended and ordered reported by the Senate Select Committee on Indian Affairs, May 13, 1982.

Based on this review, it is expected that enactment of this bill would not result in any significant costs to the government. The bill transfers approximately 2,900 acres of land from the Bureau of Indian Affairs to the trust holdings of the Washoe Indian Reservation and approximately 80 acres to the U.S. Forest Service.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill.

The Committee believes that S. 159, as amended, will have no regulatory or paperwork impact.

EXECUTIVE COMMUNICATION

The legislative report on S. 1858 received by the Committee from the Department of the Interior is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 8, 1982.

Hon. WILLIAM S. COHEN,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1858, a bill "To declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the U.S. Forest Service."

We recommend that the Committee defer action on S. 1858.

S. 1858 would transfer 2,840 acres of Federally owned land presently administered by the BIA, to the Secretary to be held in trust for the Washoe Tribe of Nevada and California and to be made a part of the Washoe Indian Reservation. All legal existing rights-of-way, mining claims, grazing permits, water rights and other legal rights or interests shall not be disturbed by the transfer. S. 1858 also would transfer 80 acres from the BIA administered land to the U.S. Forest Service.

On February 25, 1982, the President signed Executive Order 12348 that would require the payment of fair market value for any Federal lands transferred to Federal agencies and State and local governments. He specifically stated in his 1983 budget message that discounted and no-cost conveyances to State and local governments will be phased out. This transfer to the Tribe has been under negotiation with the State and this Department for over a year. We have not had sufficient time to take the President's new policy into consideration in developing our position on this bill and request deferral of action on the bill until we can do so.

In 1888 and 1889, the Congress appropriated funds for the construction of an Indian school in Ormsby County, Nevada, on 234 acres of land that was donated by the Nevada Indian School Commission to the Federal Government for an Indian school. Through the years, additional property was purchased by the United States Government, mainly for the purpose of adding a farming and ranching unit to the school. The site presently contains a total of 3,067.27 acres of non-contiguous parcels of land. The initial cost to the United States for these lands totals $167,000. The lands are presently valued at approximately $3 million.

The land described in S. 1858 is located in the community of Stewart, Nevada, which is four miles south of Carson City, Nevada and seven miles north of Gardnerville, Nevada. The land was originally a part of the Stewart Indian School complex which was officially closed after the 1980 school term due to a declining enrollment and underutilization of the school facilities. The buildings of the school were in need of renovation and repair due to major damage from earthquakes and

due to the declining enrollment, the repairs would not have been cost-effective.

In addition to the main campus area which also houses the Bureau of Indian Affairs' Western Nevada Agency, the school property includes ranching and grazing lands. The school ranch was used for educational purposes and for providing food for the students at the school.

After the school closed, the maintenance and safeguarding of the government property was left to the small staff of the Western Nevada Agency. It was later determined that the Agency did not have the necessary staff nor the funds to provide the required upkeep and protection of the school property. The Washoe Tribe, which owns trust land in the immediate area, indicated a desire to acquire the ranch lands in trust and, in the interim, agreed to provide the necessary upkeep and protection for the property. A one-year revocable permit was negotiated with the tribe to provide these services, thus allowing the Tribe to increase its agricultural capabilities and to complement its existing ranch operations.

The Washoe Tribe of Nevada has now requested, by resolution adopted by the Washoe Tribe Council on April 14, 1981, that certain Stewart School Ranch lands be added to and made a part of the Washoe tribal lands, and be held in trust by the United States for the benefit and use of the Washoe Tribe of Nevada and California.

The Governor of Nevada has requested the Secretary to transfer the Stewart Indian School facilities and property to the State of Nevada. However, the Secretary's authority to transfer administratively the Stewart property (25 U.S.C. 293a) is limited to transferring a maximum of 50 acres of land. A formal application for that amount of the property is presently being prepared by the State of Nevada.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

KENNETH L. SMITH,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 1858, as amended.

○